

ORDINANCE NO. 01-14

AN ORDINANCE OF THE CITY OF COMMERCE, TEXAS, APPROVING THE GENERAL SERVICE RATES INCLUDING RATE ADJUSTMENT PROVISIONS AND MISCELLANEOUS SERVICE CHARGES TO BE CHARGED FOR SALES AND TRANSPORTATION OF NATURAL GAS TO RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CONSUMERS IN THE CITY OF COMMERCE, TEXAS; PROVIDING AN EFFECTIVE DATE FOR RATE SCHEDULES; ESTABLISHING THE MANNER IN WHICH SUCH RATES MAY BE CHARGED, ADJUSTED AND AMENDED; IDENTIFYING NAMED PARTIES; ESTABLISHING TERMS OF ACCEPTANCE INCLUDING LOSS OF RIGHT TO APPEAL AND CONSIDERATION OF OFFER AS SET FORTH IN THE STATEMENT IF INTENT; PROVIDING A CUMULATIVE CLAUSE, PROVIDING FOR SEVERABILITY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING AN EFFECTIVE DATE; REPEALING ALL OTHER ORDINANCE; PROVIDING A SAVINGS CLAUSE AND DECLARING AN EMERGENCY.

WHEREAS, on February 16, 2001, TXU Gas Distribution, a division of TXU Gas Company, filed a Statement of Intent to change rates within the city of Commerce, Texas, which also included a Tariff for Gas Service in the Northwest Metro/Mid Cities Distribution System and the supporting Cost of Service Schedules;

WHEREAS, the Tariff for Gas Service includes Rate Schedules 4100 – NW Metro/Mid Cities System Cities, 4101 – Residential Service, 4102 – Commercial Service, 4103 – Industrial Sales, 4104 – Industrial Transportation, 4108 – 1 through 4108 – 3 – Rate Adjustment Provisions, 9001 through 9007 – Miscellaneous Service Charges and Rider 4106 – Surcharges;

WHEREAS, by acceptance and approval of TXU Gas Distribution's Statement of Intent and proposed rate changes, the City agrees to forego any right to participate in an appeal to the Railroad Commission of Texas should the Company file an appeal;

WHEREAS, acceptance and approval of the proposed rate change is understood to be in consideration of TXU Gas Distribution's offer to apply any settlement terms that are reached with any other city and that result in a rate less than the proposed rate, to the City of Commerce; and

WHEREAS, the City is a regulatory authority having a statutory duty regarding such proceedings and citizens of the City will be substantially affected by the rates established as a result of such filing.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

SECTION 1.
STATEMENT OF INTENT/FILINGS

On February 16, 2001, TXU Gas Distribution, a division of TXU Gas Company, (the "Company") filed with the Governing Body of the City of Commerce, Texas, (the "City"), a Statement of Intent to change Residential, Commercial and Industrial Rates charged to consumers within the City. Also filed was the Tariff for Gas Service in the Northwest Metro/Mid Cities Distribution System ("Tariff for Gas Service") and the supporting Cost of Service Schedules ("Schedules"). The Tariff for Gas Service includes Rate Schedules 4100 – NW Metro/Mid Cities System Cities, 4101 – Residential Service, 4102 – Commercial Service, 4103 – Industrial Sales, 4104 – Industrial Transportation, 4108-1 through 4108-3 – Rate Adjustment Provisions, 9001 through 9007 – Miscellaneous Service Charges and Rider 4106 – Surcharges.

SECTION 2.
FIXED AND APPROVED RATES

The maximum general service rates for sales and transportation of natural gas rendered to residential, commercial and industrial consumers within the city limits of Commerce, Texas by TXU Gas Distribution, a division of TXU Gas Company, a Texas corporation, its successors and assigns, are hereby fixed and approved as set forth in Rate Schedules 4101 – Residential Service, 4102 – Commercial Service, 4103 – Industrial Sales, and 4104 – Industrial Transportation included in the Tariff for Gas Service in the Northwest Metro/Mid Cities Distribution System filed on February 16, 2001.

SECTION 3.
APPROVAL OF RATE ADJUSTMENT

The Rate Adjustment Provisions set forth in the Tariff for Gas Service as Rate Schedules 4108-1 Gas Cost Adjustment, 4108-2 Tax Adjustment, and 4108-3 Weather Normalization Adjustment are approved.

SECTION 4.
COLLECTION OF REASONABLE CHARGES

The Company shall have the right to collect such reasonable charges as are necessary to conduct its business and to carry out its reasonable rules and regulations. Such miscellaneous service charges are identified in Rate Schedules 9001 through 9007 of the Tariff for Gas Service and are approved. Services for which no charge is set out may be performed and charged for by the Company at a level established by the normal forces of competition.

SECTION 5.
EFFECTIVE DATE OF RATE SCHEDULES

The aforesaid rate schedules herein approved shall be effective from and after the effective date set forth in the Statement of Intent if this ordinance is passed and approved on or before that effective date.

SECTION 6.
CHANGES/ADJUSTMENTS AND AMENDMENTS

The rates set forth in this ordinance may be changed, adjusted and/or amended by either the City of Company in the manner provided by law.

SECTION 7.
NAMED PARTIES

Unless otherwise noted herein, other than TXU Gas Distribution (a named party), no person or entity has been admitted as a party to this rate proceeding.

SECTION 8.
TERMS OF ACCEPTANCE

The City hereby accepts and approves the proposed rates. The terms of acceptance between the Company and City, as stated in the February 28, 2001 letter from TXU to the City (a copy of which is attached and incorporated herein as Exhibit A), are as follows:

- A. The City agrees to forego any right to participate in an appeal to the Railroad Commission of Texas should the Company file one; and
- B. In consideration of such acceptance, the Company shall agree as follows:
 - 1. If any other City in the TXU Gas Distribution System negotiates a settlement with TXU Gas Distribution that results in rates that are less than the proposed rates as filed by the Company with that city, the Company will offer those same settlement terms, reflected as a percentage reduction of the rates as proposed, to the City of Commerce, such that no other city in the TXU Gas Distribution System will receive more favorable rate treatment than that offered to the City. For example, if a city negotiates a settlement that results in its rates being 10% less than those proposed by the Company, the City will be offered a 10% reduction in the rates as proposed by the Company and approved in this Ordinance.
 - 2. The new rates will not be implemented until after June 21, 2001; and
 - 3. Customers in the City of Commerce, Texas will not be surcharged for any rate case expenses associated with the Statement of Intent or any appeal to the Railroad Commission of Texas, should one be filed.
- C. Should the Company fail to reach a mutually agreeable settlement offer with any other city that results in rates that are less than the proposed rates as filed, rates in the

City will be set as proposed in the Statement of Intent and passed in this Ordinance, and will not be adjusted to comport with the results of any appeal.

SECTION 9.
CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of other Ordinances and shall not repeal any of the provisions of said Ordinances except those instances where they are in direct conflict with the provisions of this Ordinance, in which event the conflicting provisions of such Ordinances are hereby repealed.

SECTION 10.
SEVERABILITY CLAUSE

If any section, article, paragraph, sentence, clause, phrase or work in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 11.
ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Commerce, Texas is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the City Council of the City of Commerce and by filing this Ordinance in the Ordinance records of the City.

SECTION 12.
EFFECTIVE DATE

That this Ordinance shall become effective from and after its date of passage in accordance with law, and it is so ordained.

SECTION 13.
DECLARING AN EMERGENCY

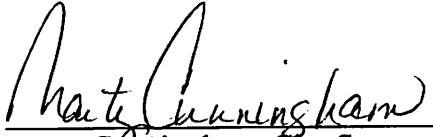
An emergency is apparent for the immediate preservation of order, health, safety and general welfare of the public, all rules and regulation requiring the reading of said ordinance more than one time and on more than one occasion are hereby suspended.

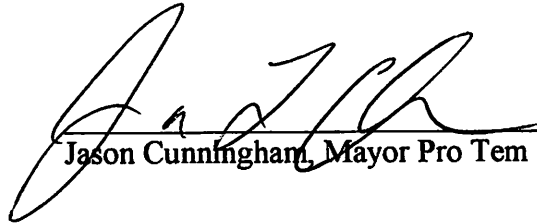
SECTION 14.
REPEALING ALL OTHER ORDINANCES

All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

ATTEST:

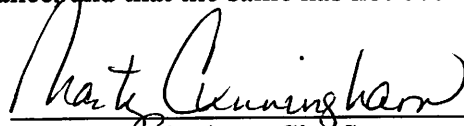
CITY OF COMMERCE:


Marty Cunningham, City Secretary


Jason Cunningham, Mayor Pro Tem

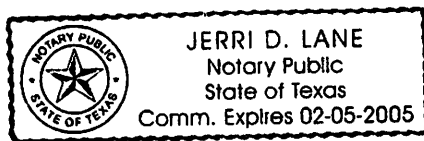
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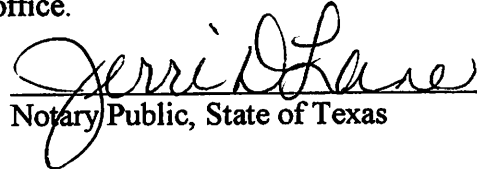
I, Marty Cunningham, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of an ordinance, and that the same has not been repealed and is in full force and effect.


Marty Cunningham, City Secretary

(seal)

Sworn to and subscribed before me, on this the 3rd day of April -
2001 to certify which witness my hand and seal of office.




Notary Public, State of Texas